

Thomas M. Moroughan

over -- put your hazards on and pulled over,
did the car remain in gear; in other words,
was it in drive?

A Yes, sir.

Q Did you stop the car at all?

A No.

Q Did you turn if off?

A No.

Q Can you tell me about how long
you remained there at that point where you
pulled over?

MR. GRANDINETTE: Objection to
form.

Q About how long time-wise did you
stay there at the point where you pulled over?

MR. GRANDINETTE: Objection to
form. I don't believe he -- ^ CHECK

Q Did there come a time you left
that point?

A (No response.)

Q When you pulled over, you put
your hazards on and you pulled over to the
side of the road --

A Yes.

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2 Q -- did you slow down, stop the
3 car --

4 A I slowed down.

5 Q -- or continue rolling along?

6 A I just slowed down. I didn't
7 stop the car.

8 Q The car was still moving along?

9 A Yes.

10 Q Do you know what rate of speed it
11 was moving along?

12 A Slower than I was originally
13 driving. I don't know exactly.

14 Q And then you say the white car
15 went around you?

16 A Yes.

17 Q When the white car went around
18 you were you able to estimate what the white
19 car's rate of speed was?

20 A Faster than me.

21 Q Did there come a time that the
22 white car actually drove away in a manner that
23 it started getting further and farther away
24 from you?

25 A Yes.

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2 Q Did there come a time where you
3 lost sight of the white car, at that point?

4 A Yes -- sorry. Can you rephrase
5 the question?

6 Q Sure.

7 You mentioned you pulled over and
8 the white car went around you. You said it
9 was travelling at a rate of speed that it
10 started getting farther away from you?

11 A Yes.

12 Q Let me ask you: Right there, at
13 that point in time, had you lost sight of the
14 blue car? Could you see the blue car anymore?

15 A I could still see it.

16 Q When the white car went around
17 you, could you still see the white car?

18 A Yes.

19 Q Was there a period of time where
20 you could no longer see the white car or the
21 blue car from where you were, after you had
22 pulled over with the hazards on?

23 A I still kind of don't understand
24 the question. There were multiple turns.

25 Q That's okay.

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2 You said you pulled over -- put
3 your hazards on, pulled over while the white
4 car went past you.

5 So at this point now the blue car
6 and the white car were in front of you?

7 A Yes.

8 Q You said the white car was
9 accelerating in a way that it started getting
10 further away from you as time went on, right?

11 A Yes.

12 Q What did you do at that point in
13 relation to your car? What did you do?

14 A I came up to the traffic light at
15 West Hills Road and Lockwood and West 19th
16 Street.

17 Q Okay. Let me just stop you.

18 Between the time that you pulled
19 your car over with the hazards until the time
20 you got to that point, could you still see the
21 white car?

22 A Yes.

23 Q Could you still see the blue car?

24 A Yes.

25 Q And what was the position of the

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white car and blue car? Was one behind the other, do you know?

A Yes.

Q When you got to the traffic light as you describe, can you tell me where the white car and blue car were at all, if you could see them at all?

A They were about halfway up West 19th Street.

Q Is that the same street you were on?

A Can I describe it?

Q Sure. Go ahead.

A The intersection at West Hills Road, it continues to the left, whereas West 19th Street is straight ahead of you at the traffic light.

West Hills Road turns into West 19th on the other side of the traffic light. But if you make a left, you're still on West Hills Road.

Q So if I use the phrase, if I'm on West Hills Road at the traffic light and I stay to the right, I'll wind up getting onto

1 Thomas M. Moroughan

2 West 19th Street?

3 A Yes. That is why I could still
4 see the vehicles.

5 Q So they were travelling on West
6 19th Street?

7 A Yes.

8 Q When you were at the light, were
9 they stopped at the light with you or were
10 they already travelling on the other side of
11 the light had the light turned green?

12 A They were already travelling.

13 Q So you were waiting for a period
14 of time at the light while they were
15 travelling down West 19th?

16 A Few seconds.

17 Q Nonetheless, you were waiting at
18 the light?

19 A Yes.

20 Q Was it a red light?

21 A Yes.

22 Q You didn't go through the red
23 light?

24 A No.

25 Q Did there come a time the light

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2 turned green?

3 A Yes.

4 Q What did you do when the light
5 turned green?

6 A I continued driving on West 19th
7 Street.

8 When I was waiting at the red
9 light, that's when the dispatcher notified me
10 that my fare was cancelled and I was
11 heading -- I was going to head down towards
12 Huntington Village because you get a lot of
13 flags down there. It is a popular place with
14 all bars.

15 Q Fair to say you figured that
16 might be a place you would get a fare?

17 A Yes.

18 Q Either be dispatched there or
19 someone might just flag you?

20 A Yes.

21 Q To do that you started going down
22 West 19th Street?

23 A Yes.

24 Q Before you got the dispatch
25 cancelling the other fare was your intention

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2 to continue down West 19th Street?

3 A Just to the house. The house
4 that I was dispatched to was 131 West 19th
5 Street.

6 Q So you would have still -- if the
7 light turned green you still would have gone
8 down that street?

9 A Yes.

10 Q As opposed to continuing on West
11 Hills?

12 A Yes.

13 Q After the light turned and you
14 got dispatched, you continued down West 19th
15 Street?

16 A Yes.

17 Q When you continued down West 19th
18 Street, could you still see the white and blue
19 vehicles?

20 A Yes.

21 Q Tell me what happened at that
22 point.

23 A I continued down West 19th Street
24 going west until I hit the corner of Oakwood
25 Road and West 19th Street.

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2 Q Which direction does Oakwood run;
3 east/west, north/south?

4 A North/south.

5 Q What happened when you got to
6 that intersection?

7 A I waited for the traffic light.
8 When the traffic light turned green I made a
9 right-hand turn to go northbound on Oakwood
10 Road.

11 Q When you got to the intersection
12 of Oakwood Road as you described, were you
13 able to observe the white car and the blue
14 car?

15 A Not until I made the turn.

16 Q So is it fair to say as you
17 approached the intersection of West 19th and
18 Oakwood Road those cars were not in your
19 sight?

20 A Correct.

21 Q When you turned onto Oakwood did
22 you make a right, you said?

23 A Yes.

24 Q Then you were able to observe
25 them again?

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A Yes.

Q Prior to approaching the Oakwood Road intersection, were you -- did you observe the white car and blue car make a right turn onto Oakwood Road?

A Yes.

Q And when you observed them make the right turn, what was the distance, if you can, between your car and their car, those two cars, when it made the right turn?

A I'm not exactly sure. I want to say --

MR. GRANDINETTE: Don't guess.

BY MR. MITCHELL:

Q Yeah, don't guess. If you don't know, that's fine.

A I don't know.

Q There came a time you made a right turn onto Oakwood Road when the light turned green, correct?

A Yes.

Q When you made the right onto Oakwood Road when the light turned green, you mentioned to me that at some point you saw the

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white car and the blue car after you made the right turn, correct?

A Yes.

Q In relation to when you made the right turn, when did you first see those two cars?

A Right there.

Q When you say "right there" do you mean in time-wise: In other words, you made the right turn and right after you made the right turn you observed the cars, or "right there" as in they were physically close to the corner of Oakwood Road?

A Both.

Q In relation to the corner of Oakwood Road and West 19th Street, where were those vehicles?

A They were actually on the next corner, which is Oakwood Road and Tippin Drive.

Q What is the distance between West 19th and Tippin Drive, if you go down Oakwood?

A Maybe 500 feet.

Q And when you observed those cars

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2 at the location you just said, can you tell me
3 what the position of those cars was?

4 A They were on the shoulder. The
5 blue Acura was in front on the corner of
6 Tippin, and the white Infiniti was directly
7 behind the blue Acura.

8 Q Were the cars actually on Oakwood
9 Road or were they on Tippin -- is it Tippin
10 Drive, Tippin Street?

11 A Tippin Drive.

12 They were on Oakwood Road.

13 Q They were right at the corner, as
14 you have mentioned?

15 A Yes.

16 Q And when you observed those cars
17 what did you do at that time?

18 A I pulled up to the white
19 Infiniti, I rolled down my window, he rolled
20 down his window, and I said something to the
21 effect of: Where did you guys learn how to
22 drive, you guys are going to kill somebody.

23 Q Okay.

24 A Where did you get your license
25 from.

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1
2 Q Just that day when you gave the
3 statement you said: You're going to fucking
4 kill somebody?

5 Do you agree you cursed at that
6 time?

7 A Yes.

8 Q Sitting here today you have a
9 recollection of having cursed at that time,
10 correct?

11 A Yes.

12 Q Now, when you rolled down the
13 window -- right -- did you bring your car --
14 did you slow your car down to come to a stop?

15 A Yes.

16 Q The white car and the blue car at
17 that point, they were actually stopped?

18 A Yes.

19 Q Do you know if they were running;
20 meaning, do you know if the engines were
21 running in those cars?

22 A I'm not sure. I would imagine
23 so.

24 Q But you don't know?

25 A I don't want to guess.

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2 Q And when you rolled down your
3 window, was that an automatic window thing?

4 A Yes.

5 Q In other words, do you know if
6 Ms. Mondo rolled down the window?

7 A No, I did.

8 Q From the time that you made the
9 right onto Oakwood Road to the time where you
10 got to where the vehicles were, did you say
11 anything at all to Ms. Mondo about those
12 vehicles?

13 A Don't believe so.

14 I know that I did say something
15 after the white car originally passed me.

16 Q What did you say then?

17 A Look, there goes another drunk on
18 the road, or something to that effect.

19 Q Okay. Did you curse at that
20 time?

21 A I don't believe so.

22 Q When you say another drunk on the
23 road, what led you believe they were drunk?

24 A The way they were driving.

25 I mean, being a cab driver, I was

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doing it for a few years, you know, you kind of seek driving habits.

Q Okay. Other than the driving of the vehicles, you didn't have -- at that point you didn't get a chance to observe these people, correct?

A No.

Q If someone was driving a vehicle and purposely slowed their vehicle down to impede the ability of a vehicle behind them, in other words, slow down on purpose because someone is behind them, would that be something you might consider to be a factor of someone driving drunk?

MR. GRANDINETTE: Objection to form.

You can answer.

Q You follow my question?

A No, I don't.

Q In other words, if I'm in a vehicle and there's a vehicle behind me, and the person who is driving that car, the one in front, purposely slows down to, and I'll use the word, annoy the guy behind you, would that

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be something you might consider to be a factor in determining if someone was driving drunk or not?

MR. GRANDINETTE: Objection to form.

A No.

Q It would just be someone who might be pissed off?

MR. GRANDINETTE: Objection to form. It is a hypothetical.

You can answer.

A No.

Q Okay. So if someone was purposely slowing the vehicle down just for the purpose of annoying the person behind them, you wouldn't consider that something -- the person who is slowing down on purpose might be angry or annoyed at the guy behind him?

MR. GRANDINETTE: Brian, I'm going to object to the form, in light of the fact that you're asking him a hypothetical and to interpret the mental impression of the hypothetical driver.

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2 MR. MITCHELL: That's fine.

3 Direct him to answer or not. I don't
4 care.

5 MR. GRANDINETTE: Subject to that
6 objection.

7 Q Okay.

8 MR. CLARKE: What is the answer?

9 A Oh, I have to answer. Okay.

10 No. I mean, I might say if --
11 you know, somebody might slow down if they
12 were worried or scared that the person behind
13 them is going to hit them or you don't know
14 exactly what's going on, if someone comes
15 flying up behind you, sometimes you would take
16 the -- defensive driving.

17 Q What if it wasn't defensive?
18 What if you did it on purpose to annoy the guy
19 behind you?

20
21 MR. GRANDINETTE: Same thing,
22 objection to form.

23 Are you asking him specifically
24 about this night or is this the
25 continued hypothetical?

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2 MR. MITCHELL: In the concept of
3 if you saw -- if you were aware that
4 someone drove that way, would it lead
5 you to believe that that person may be
6 upset with the guy behind him.

7 MR. GRANDINETTE: Again I'll
8 object to the form. I'll object to the
9 hypothetical.

10 Don't guess.

11 BY MR. MITCHELL:

12 Q If you know.

13 A I don't know.

14 Q Okay.

15 Now, when you say that you
16 approached the white car and blue car, they
17 were stopped, correct?

18 A Yes.

19 Q And then you actually slowed your
20 vehicle down to a stop?

21 A Yes.

22 Q And rolled down your window?

23 A Yes.

24 Q And that's when you made the
25 statement to the person, correct?

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2 A Yes.

3 Q Up until that point had either
4 the person in the blue car or the white car --
5 up until that point had either of those
6 persons ever said anything to you?

7 A No.

8 Q And after you rolled down the
9 window and said those comments, what, if
10 anything, happened at that point in relation
11 to the people in the other car? What did they
12 do?

13 A The guy driving the white
14 Infiniti, he yelled back at me: Learn how to
15 drive a taxi, fatty.^ check

16 Q Okay.

17 A And that was what he said back,
18 in retaliation.

19 Q Did he say anything else to you,
20 at that point?

21 A Not at that point.

22 Q And when he said that to you, did
23 you say anything back to him?

24 A Not that I can recall. I
25 remember Ms. Mondo saying something to the

1 Thomas M. Moroughan

2 effect of: What are we, 18.

3 Q Did she say that -- what are we,
4 18 -- did she say that to you in particular?

5 A No.

6 Q What do you believe she meant
7 when she said: What are we, 18?

8 MR. GRANDINETTE: Objection;
9 calls for her state of mind.

10 MR. MITCHELL: I'm asking him,
11 what did he think.

12 A I thought maybe she meant it
13 like a thing of, you know, we were kind of
14 taking -- being -- taking everything a
15 little -- it was going overboard.

16 Q Did you take it to mean that she
17 thought you were acting childish?

18 MR. GRANDINETTE: Objection to
19 form.

20 A No.^ chk

21 Q Okay.

22 After the person in the car said
23 that to you, what did you do at that point?

24 A Nothing. He responded to her
25 saying -- saying to me: Teach your fat ass,

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cunt girlfriend to learn how to use a diet.

Q Okay.

So that was in response to her
saying --

^ SPEAKER: I am sorry, can you
just read that back?^ check, I don't
know who asked for readback

(Record read.)

^ SPEAKER: If I am correct, and
pardon me, but did you use the word --
did he say "teach your fat ass, cunt
girlfriend"?

THE WITNESS: I believe so.

BY MR. MITCHELL:

Q I just want to clarify that.

So in other words, he used that
vulgarity during that phrase?

A Yes.

Q And when he said that, this was
after Ms. Mondo said: What are we, 18?

Right?

A Yes.

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2 Q And at the time when you were
3 there and you rolled down your window, right,
4 can you tell me what gear your car was in?

5 Actually, let me withdraw that.

6 Was it an automatic?

7 A Yes.

8 Q And when you rolled down your
9 window, your car had stopped moving, correct?

10 A Yes.

11 Q Can you tell me what gear it was
12 in?

13 A I believe it was in drive.

14 Q And did you have your foot on the
15 gas or foot on the brake?

16 A Foot on the brake.

17 MR. CLARKE: Can I ask you a
18 question?

19 ---

20 (Discussion off the record.)

21 ---

22 BY MR. MITCHELL:

23 Q Just for clarification of the
24 record, Mr. Moroughan, at the time when you
25 stopped you said you observed the blue car and

1 Thomas M. Moroughan

2 the white car stopped. Were they to the right
3 of the road?

4 A Yes.

5 Q When you stopped were you to the
6 left of the white car?

7 A Yes.

8 Q When you rolled down your window
9 were you rolling down the passenger window?

10 A Yes.

11 Q By the way, when you rolled down
12 the window, the passenger window, did you roll
13 down your driver's window as well?

14 A No.

15 Q You were mentioning to me that
16 the car was an automatic, correct?

17 A Yes.

18 Q And this Prius car, are there
19 times when you can come up to a light and not
20 have your foot on the brake or on the gas and
21 it will sit there and not move?

22 A Not that I am aware of.

23 Q Now, you mentioned to me that the
24 car was in drive when you stopped by the white
25 car?

1 Thomas M. Moroughan

2 A Yes.

3 Q And you believe you had your foot
4 on the brake?

5 A Yes.

6 Q Tell me what happened then.

7 A I obviously got upset with, you
8 know, him insulting my girlfriend. I put the
9 car in park. I put my left -- I opened up my
10 driver's door, I put my left leg out. I stood
11 up so I could kind of see over my windshield.
12 I asked him: What the hell is your problem.

13 Q Okay. Did you say anything else?

14 A Me?

15 Q Yes.

16 A No.

17 Q When you say you put the car in
18 park, can you tell me how you did that?

19 A There is a button and you just
20 press it, and it says a "P" on it. It's on
21 the left-hand side of the gear shifter.

22 Q When you push park, does the car
23 still run?

24 A Yes.

25 Q But when you push park and the

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car is running, if you take your foot off the gas and your foot off the brake, the car should stay where it is, right?

A Yes.

Q When you opened the door -- it was your driver's door?

A Yes.

Q All right.

Did the car move at all when you opened your door?

A No.

Q After you said these words to the person -- was it the person in the white car you were saying these words to?

A Yes.

Q Can you tell me, where was the person in the white car when you got out of your car as you described and yelled over to that person?

A He was in the driver's seat.

Q Was there anybody else that you had -- that you noticed in his car at that time?

A There was a female in the

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passenger seat.

Q In relation to the blue car, did you notice anybody from the blue car at all at that point?

A No.

Q After you yelled out over your car as you described -- what was it you said to them?

A What the hell is your problem.

Q And you'd agree with me at this point in time, when you said to him what the hell is your problem, that this was after you had stopped your car and rolled down your window and spoken to that person?

A Yes.

Q Now, tell me what happened when you said what the hell is your problem. What happened then?

A He opened up his door. He jumped out of the car. I mean, he just -- really loud, like he was just like: I'll show you what my fucking problem is.

Like, just by his demeanor, you know, you were able to just tell he was, for

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2 lack of a better word, very angry.

3 Q And up until that point when he
4 said that, when you first said something to
5 him through your window you cursed as well,
6 correct?

7 A Yes.

8 Q Did you raise your voice when you
9 said that to him?

10 A I don't believe so. I don't
11 recall.

12 Q Did you say it conversationally?

13 A No.

14 Q You spoke louder than normal?

15 A Yes.

16 Q You cursed, right?

17 A Yes.

18 Q And you essentially said to him
19 something about where did you learn to drive?

20 A Yes.

21 Q Based upon that, do you think he
22 was angry? Do you think that led him to
23 become angry?

24 MR. GRANDINETTE: Objection to
25 form. Calls for state of mind.

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2 A I don't know what he was
3 thinking.

4 Q When you said the words to him
5 were you angry?

6 A I was upset. I was worried that
7 the way he was driving he was literally going
8 to hurt somebody. I was lucky with the fact
9 that -- I consider myself very cautious and a
10 very good driver -- that I was able to
11 maneuver myself and get away from --
12 especially from the initial encounter with the
13 blue Acura. Some people he would have hit.

14 MR. SCHROEDER: Move to strike
15 portions unresponsive.

16 ---

17 (Motion to Strike)^

18 ---

19 BY MR. MITCHELL:

20 Q I am talking about when you
21 rolled down your window, when you stopped and
22 rolled down your window and said those words
23 to him, at that point were you angry?

24 A I was upset.

25 Q Were you angry?

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2 MR. GRANDINETTE: Objection.

3 It's argumentative.

4 If you can answer, answer.

5 A I think upset is the same --
6 would have the same meaning.

7 Q As angry?

8 A Sort of.

9 Q Okay.

10 Now, did there come a time that
11 the guy in the white car got out of his car?

12 A As soon as I said what I said he
13 jumped out of his car and started screaming.

14 Q Where were you at that point?

15 A I was still like halfway in the
16 car, halfway out of my car, just looking over
17 my windshield.

18 Q And when he got out of his car,
19 can you just tell me, if you could -- we've
20 got three cars we've described: Your car, the
21 white car and the blue car. Can you tell me,
22 when he got out of his car at that point, what
23 were the positions of your car, the white car
24 and the blue car, in relation to each other?

25 A I was on the left of the

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Infiniti.

Q That is the white car?

A The white car. I was on the left of the white car.

And the blue car was in front of him.

Q The blue car was in front of the white car?

A Yes.

Q When you say you were on the left, is it fair to say that your car -- I know they are two different colors, but your car was essentially parallel to the white car?

A Yeah.

Q Were the drivers -- you obviously have a driver's window, his car had a driver's window. Fair to say that they were sort of lined up?

A I believe my window was just shy of his window. So I was probably a little bit behind his front window.

Q When you say "just shy," would that mean that you were more equal with what I would call the post between his driver's

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2 window and his rear passenger window?

3 A Yes.

4 MR. GRANDINETTE: I'll object to
5 the form, but...

6 Q Now, you said that the guy in the
7 white car got out of the car, correct?

8 A Yes.

9 Q Okay. At any point up until now
10 did the guy in the blue car get out at all, up
11 until this point?

12 A Up until the point where the guy
13 in the white car got out, no.

14 Q Did there come a time -- after
15 the guy in the white car out, what did the guy
16 in the white car do after he got out of the
17 car?

18 A Started -- he screamed at me
19 saying: I'll show you what my fucking problem
20 is.

21 And at that point in time is when
22 I saw the guy in the blue car get out of his
23 car as well.

24 Q Where were you when you saw the
25 guy in the blue car get out?

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2 A Same place as before. I was
3 standing -- like in between the door and the
4 cabin of the vehicle, with one leg on the
5 ground, one leg still inside the car, looking
6 over.

7 Q And you were able to look over
8 the, in other words, roof and windshield of
9 your car?

10 A Yes.

11 Q So when you say you had one leg
12 out, it was in contact with the street?

13 A Yes.

14 Q And fair to say that your body
15 was turned in a way more towards where the
16 white car and the blue car were?

17 A Yes.

18 Q Did you have like one hand on the
19 door and one hand on the roof --

20 A I don't recall.

21 Q -- supporting yourself? Anything
22 like that?

23 A I don't recall.

24 Q Tell me what happened after the
25 guy in the white car said those words.

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2 You said you saw the guy in the
3 blue car get out?

4 A Yes.

5 Q At that point in time were you
6 able to observe if there was anybody else in
7 those cars other than the two men that you
8 have described?

9 A All I saw was the female in the
10 passenger seat of the white car.

11 Q Tell me what happened then.

12 A My girlfriend said: Babe, just
13 get in the car, let's go, this guy is crazy,
14 let's just go.

15 Q Did she use those words: This
16 guy is crazy?

17 A Or wasted, or -- I can't recall
18 exact words.

19 Q Okay.

20 A To the effect of.

21 And I kind of felt the same way
22 and the fact that there was two of them, at a
23 minimum two people, so I got in the car. I
24 put the car in reverse, and I backed up two or
25 three car lengths.

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2 Q Let me just stop you, sir.

3 When she said to you, these guys
4 are crazy, or something to that effect, did
5 she say anything to you about your conduct at
6 that point?

7 A No.

8 MR. GRANDINETTE: I'm just going
9 to object to the form. You said "these
10 guys are crazy." I don't believe --

11 MR. CLARKE: I'm going to object
12 to that as well.

13 BY MR. MITCHELL:

14 Q When she said those words to you
15 that you paraphrased earlier about the guy
16 being crazy or something like that -- by the
17 way --

18 A Yes.

19 Q -- she was referring to the guy
20 in the white car?

21 A Yes.

22 Q Did she say anything to you at
23 that time about your conduct?

24 A No.

25 Q She didn't say anything like why

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2 did you stop, why did you do this, anything
3 like that?

4 A No.

5 Q And you mentioned that you put
6 your car in reverse?

7 A Yes.

8 Q Okay.

9 So did you get back in the car?

10 A Yes.

11 Q When you got back in the car and
12 put it in reverse, did you close the door?

13 A Yes.

14 Q And when you put it in reverse,
15 did you put your foot on the gas to make the
16 car move backwards?

17 A Yes.

18 Q Prior to putting your foot on the
19 gas, did you do anything with that park
20 button?

21 A No. I just put the shifter in
22 reverse.

23 Q Okay. And you stepped right on
24 the gas?

25 A Yes.

1 Thomas M. Moroughan

2 Q And the car went in reverse?

3 A Yes.

4 Q And by the way, did the car make
5 any noise when it went in reverse?

6 A No.

7 Q When you went in reverse, can you
8 tell me about how far you went in reverse?

9 A Two or three car lengths.

10 Q Tell me what happened after you
11 went in reverse?

12 A I put it in drive. I started --
13 I turned the wheel to the left to make a
14 U-turn -- a U-turn, to get -- to leave.

15 Q You didn't drive -- put it in
16 drive to drive forward and just go down the
17 street that you were on?

18 A No.

19 Q Essentially where this is, this
20 is at the corner of Oakwood and Tippin; is
21 that right?

22 A Yes.

23 Q Does Oakwood continue over
24 Tippin? In other words, at the intersection
25 does Oakwood keep going straight?

1 Thomas M. Moroughan

2 A Yes.

3 Q And when you went to put it in
4 drive, can you describe for me how you did
5 that?

6 A I brought the shifter over to the
7 left and then down to the right -- over to the
8 left and then down.

9 Q Now, you'd been driving this car
10 for about a year, you said?

11 A Yes, sir.

12 Q Had you had any trouble with this
13 car before this?

14 A No.

15 Q Were you ever involved in a motor
16 vehicle accident with this car, when you were
17 driving with Dobro Taxi Company?

18 A No.

19 Q Did you ever report a motor
20 vehicle accident when you were driving this
21 car with the Dobro Taxi Company?

22 A That car, no.

23 Q Were you in a different Prius
24 with the Dobro Taxi Company within the week
25 that you got in a motor vehicle accident?

1 Thomas M. Moroughan

2 A Not that I was in the car, no.

3 Q Was there a motor vehicle
4 accident that you reported with the Dobro Taxi
5 Company involving the Prius?

6 A Yes.

7 Q What was that about?

8 A I was parked at One Stop Deli and
9 a lady backed into the car.

10 Q Okay. Did you contact the police
11 about that?

12 A Yes, sir.

13 Q Now, you mentioned that you put
14 the car into drive to make a U-turn.

15 Tell me what happened at that
16 point.

17 A I put the car in drive. I turned
18 the wheel to the left. I started to move and
19 then that is when I noticed the guy from the
20 white car lift his hand and then I started
21 seeing the flash of his muzzle.

22 Q You mentioned to me about the
23 Prius and you said to me that you had put your
24 foot on the brake to shift into reverse; is
25 that right?

Thomas M. Moroughan

MR. GRANDINETTE: Objection to

form.

Q When you went into reverse?

A Yes.

Q When you have been in the Prius and you put your foot on the gas -- if the car is in park -- let me stay that -- you put it in park. The car is running.

If you put -- if you put your foot on the gas, will the car do anything? Will it move?

A No.

Q You have to put your foot on the brake to then shift and then put your foot on the gas to make it go somewhere, right?

A Yes.

Q If you don't put your foot on the brake and you just push down on the gas and the car is in the gas mode, the car will make a noise, will it not?

MR. GRANDINETTE: Objection to

form.

A Not a hundred percent sure.

Q In other words, the engine would

Thomas M. Moroughan

accelerate?

You are familiar with how a car can accelerate if you put your foot on the gas, right?

A Yes.

Q Have you ever been in a regular car -- meaning not a Prius -- right, like a regular car with a normal automatic transmission?

Can I use that phrase?

A Yes.

Q If you put the car in neutral and step on the gas, would you agree that the engine would make a noise?

MR. GRANDINETTE: Objection; relevance.

Q Are you familiar with that?

MR. GRANDINETTE: If you know the answer you can answer.

A Yes.

Q Actually, if the car is in park and you step on the gas, the engine will speed up -- in other words, are you familiar with RPMs in an engine?

1 Thomas M. Moroughan

2 A Yes.

3 Q The RPMs will get higher, right?

4 A Yes.

5 Q But the car won't go anywhere,
6 right?

7 MR. GRANDINETTE: Objection.

8 A Correct.

9 Q If you are in the Prius, you
10 don't have your foot on the brake, the car is
11 in park and you step on the gas, will it make
12 a similar noise?

13 MR. GRANDINETTE: Objection.

14 A Not sure.

15 Q How long did you drive the Prius
16 for when you were with the Dobro company?

17 A Probably a week. Seven, eight
18 days, I believe.

19 Q Okay. But after that did you
20 continue driving?

21 A No.

22 Q You didn't -- because of what
23 happened that night you didn't drive for Dobro
24 again?

25 A I did for a while after it. But

1 Thomas M. Moroughan

2 the Prius was in the Suffolk County impound
3 yard.

4 Q So you were driving a different
5 car?

6 A Yes.

7 Q After you put the car in drive as
8 you described, it was your intention to make a
9 U-turn, you said?

10 A Yes.

11 Q Then you said that you saw the
12 guy from the white car -- you saw the muzzle
13 flash? Is that what you said?

14 A I saw him lift his hands like
15 this (indicating) and I saw the muzzle flash.

16 Q Before you saw the muzzle flash
17 did you see that he had a gun in his hand?

18 A No.

19 MR. GRANDINETTE: For the
20 preceding question just let the record
21 reflect that the witness put his two
22 hands together, arms outstretched, level
23 with his nose.

24 BY MR. MITCHELL:

25 Q Okay.

1 Thomas M. Moroughan

2 And Mr. Moroughan, before coming
3 in today did you review anything for your
4 testimony?

5 A My notes that were used in the
6 50H hearing.

7 I've looked at some of the -- the
8 stuff from the 50H just to remember timelines
9 and stuff.

10 Q When you say stuff from your 50H,
11 does that mean reviewing the transcript from
12 your 50H examination?

13 A Yes.

14 Q When reviewing the 50H transcript
15 did you see in there whether you indicated in
16 your 50H transcript whether you saw the gun
17 before the muzzle flash?

18 MR. GRANDINETTE: Objection to
19 the form.

20 You can answer the question.

21 A I don't quite remember.

22 Q Now, after you saw the muzzle
23 flash, what happened at that point?

24 A At that point I saw him walking
25 towards my car, continuing to fire.

1 Thomas M. Moroughan

2 Q Okay.

3 A That's when I put my head down
4 underneath the dash to take cover.

5 Q And was the car still in drive?

6 A Yes.

7 Q You hadn't pushed that park
8 button, right?

9 A No.

10 Q So the car was in drive, you
11 intended to go forward for the purpose of
12 making a U-turn, am I right?

13 MR. GRANDINETTE: Objection to
14 the form.

15 A No. I already had the wheel
16 turned before I even put it in drive, so I
17 never actually went forward. It was towards
18 the left. I only made it a foot or two at
19 most.

20 Q Before you saw the muzzle flash?

21 A Before I saw the muzzle flash.

22 Q So you would agree with me that
23 the car was in drive and moved a foot or two
24 before you saw the muzzle flash?

25 A To the left, yes.

1 Thomas M. Moroughan

2 Q The car moved a foot or two
3 before you saw the muzzle flash?

4 A Yes.

5 Q After you saw the muzzle flash
6 did you push that park button?

7 A No.

8 Q Was the car still in drive?

9 A Yes.

10 Q Did you still have your foot on
11 the gas?

12 MR. GRANDINETTE: Objection.

13 A No. My foot was on the brake.

14 Q You put your foot on the brake?

15 A Yes.

16 Q And when you put your foot on the
17 brake, was that before or after you saw the
18 muzzle flash?

19 A Right after I saw the muzzle
20 flash.

21 Q So you agree with me that before
22 you saw the muzzle flash your foot was still
23 on the gas pedal?

24 A It was so fast, I honestly don't
25 even think my foot made it to the gas pedal.

1 Thomas M. Moroughan

2 I was probably just coasting a foot or two.

3 Q But your moved a foot or a two?

4 A Yes.

5 Q With the car in drive?

6 A Yes.

7 Q Before you saw the muzzle flash?

8 A Yes.

9 Q After you -- at this point you
10 described you saw the muzzle flash, you ducked
11 down.

12 What happened at that point?

13 A When I saw -- when I saw -- when
14 I heard that the gun stopped firing, when I
15 didn't hear shots anymore, I looked up, I
16 looked over to my left, trying to get up, and
17 I see the guy who was shooting at my driver's
18 side window, and I see him break open my
19 window. Then he hits me in the face with the
20 butt of his gun.

21 Q Can you describe for me what, if
22 anything, that guy was wearing?

23 A He was wearing an orange -- like
24 an orange -- something with orange and it was
25 a button-down.

1 Thomas M. Moroughan

2 Q Can you describe for me what the
3 guy looked like?

4 A Caucasian male. Mid 20s. Dark
5 hair. Not long, but not short.

6 Q And after he -- you said he broke
7 your window?

8 A Yes.

9 Q And at that point in time, if you
10 know, was the passenger window on your car
11 still down?

12 A I believe so, yes.

13 Q And after he broke your window
14 what happened?

15 A He hit me in the face with the
16 gun.

17 Q Where in the face did you get
18 hit?

19 A Right in my nose.

20 Q Then what happened?

21 A Put me in a daze.

22 The next thing I know, he has my
23 door open and he was trying to pull me out of
24 the car. He is hitting me, he is punching me.
25 And I'm fighting with him to get my arm free

1 Thomas M. Moroughan

2 to put the car in reverse.

3 Q Okay.

4 Up until that point where we are
5 right now, where you said you are fighting
6 with him to get your arm free to put the car
7 in reverse, had you ever pushed that park
8 button on the car?

9 A No.

10 Q So as far as you know the car was
11 still in drive?

12 A Yes.

13 Q Now, when he opened the door and
14 reached in as you described, trying to get you
15 out of the car, fair to say that the driver's
16 door -- let me put it this way: He would have
17 been between you and the driver's door?

18 A Correct.

19 Q Tell me what happened then.

20 A He was hitting me and -- you
21 know, with the one hand he has my arm. I'm
22 trying to go for the shifter. I manage to
23 get -- I managed to get it into reverse and I
24 stepped on the gas to get out of there.

25 Q When you slammed on the gas, what

1 Thomas M. Moroughan

2 happened to the car?

3 A We went -- I went backwards. I
4 didn't make it anywhere because I noticed that
5 my girlfriend had fallen -- I didn't realize
6 at first that she had opened up her car door
7 and that she was like getting out. She was
8 screaming at him. And I hear her yelling
9 something in the background. And then she
10 kind of fell.

11 So I yelled at her: Close the
12 fucking door, close the fucking door.

13 As soon as I see that she's --
14 both feet are back in the car, I got in.

15 Q Okay.

16 A In reverse.

17 Q So she tried to get out of your
18 car?

19 A Yes.

20 Q Your girlfriend?

21 A Yes.

22 Q Was her passenger door open when
23 she was trying to get out?

24 A Yes.

25 Q And she got back in after you

1 Thomas M. Moroughan

2 said those words to her?

3 A Yes.

4 Q And then you said you gunned it,
5 right?

6 A Yes.

7 Q When you put your foot on the gas
8 the car moved back quickly?

9 A Yes.

10 Q Did it make a noise when it moved
11 back, like did the engine make a noise?

12 MR. GRANDINETTE: If you know.

13 A No, I don't know if it made a
14 noise. I heard like a chirp. Probably from
15 the tires, from me trying to hit it.

16 Q So the engine engaged in a way
17 that was strong enough to make the tires chirp
18 on the street? With enough power, let me put
19 it that way?

20 A Yes.

21 Q And then you backed up?

22 A Yes.

23 Q What happened when you backed up?

24 A I backed up probably five, six
25 car lengths, I want to say. I swung the car

1 Thomas M. Moroughan

2 around, still in reverse, to be able to face
3 the other direction. I closed my door. And I
4 made a -- I made a left onto West 19th Street
5 to go back northeast.

6 At that point in time -- I had
7 already known that I was hit, that I was shot.
8 I told Ms. Mondo to call 911, tell them that,
9 you know, that I was shot, I was going to
10 Huntington Hospital. And I contacted my
11 dispatch to tell them the same thing.

12 Q If you know, did Ms. Mondo call
13 911?

14 A Yes.

15 Q Did she do so -- you know that
16 from seeing her do it, hearing her do it?

17 A Yes.

18 Q What, if anything, happened to
19 the guy in the orange shirt, I'll use that
20 phrase, when you reversed?

21 A The door struck him and knocked
22 him to the ground.

23 Q When he fell to the ground as you
24 were reversing, fair to say that your driver's
25 door would have gone over him?

1 Thomas M. Moroughan

2 Do you follow what I am saying?

3 Was he down on the ground and the
4 driver's door went over his person?

5 A I am not sure.

6 Q You indicated that you then went
7 in reverse, did this maneuver and were driving
8 to go to the hospital, correct?

9 A Yes.

10 Q From the time, up until where we
11 are right now, you described this guy in the
12 white car doing certain things.

13 Earlier you mentioned to me that
14 you saw the guy in the blue car get out of the
15 blue car, correct?

16 A Yes.

17 Q Other than him getting out of the
18 blue car, can you describe for me anything
19 that the guy in the blue car did throughout
20 what you've described for me, other than what
21 you've told me about him getting out of the
22 blue car?

23 A He walked towards my car, a few
24 feet behind the car the guy who was in the
25 white Infiniti. And I really didn't get much

1 Thomas M. Moroughan

2 of a look at him after the shooting happened
3 due to the fact that I was still kind of
4 crouched down and I'm trying to take cover
5 from his hits.

6 I remember him -- I want to say
7 it was him because he was the only other male
8 that I could remember being there --
9 screaming, you know, while I was getting
10 beaten up.

11 Q Do you know what the words were
12 that he was screaming?

13 A No. I was paying more attention
14 to the guy that was beating me up.

15 Q Other than what you just
16 described to me about the guy from the blue
17 car --

18 A Yes.

19 Q -- is there anything else that he
20 did there at the scene that you just
21 described, other than what you have told me?

22 A No.

23 Q He didn't punch you at all,
24 correct?

25 A No.

1 Thomas M. Moroughan

2 Q He didn't shoot you, right?

3 A No.

4 Q He didn't break your window?

5 A No.

6 Q He just got out of his car and
7 maybe yelled?

8 A Yes.

9 Q Was there ever a time where you
10 saw Ms. Mondo using her phone to text people
11 during this incident?

12 A During this incident?

13 Q Yes.

14 A I mean, not -- not while the
15 incident was going on.

16 Q Was there a time, from the time
17 that you arrived and rolled down your window
18 and yelled at the guy in the white car to the
19 time that you were reversing to leave that
20 area, that Ms. Mondo was texting on her phone?

21 MR. GRANDINETTE: Objection;
22 asked and answered.

23 A I don't believe so.

24 Q Now, you indicated that you put
25 it in reverse for the purpose of leaving that

1 Thomas M. Moroughan

2 area, right?

3 A Yes.

4 Q And where did you go?

5 A Drove to Huntington Hospital.

6 MR. SCHROEDER: Is this -- are
7 you in the middle of something? Is this
8 a good time to take a break?

9 MR. MITCHELL: Perfect. Perfect.

10 ---

11 (A recess was taken.)

12 ---

13 BY MR. MITCHELL:

14 Q And, Mr. Moroughan, I apologize,
15 I just want to take you back to at the scene
16 there.

17 When the fellow from the white
18 car came over and broke your window, right, as
19 you described, did he say anything to you?

20 A No.

21 Q He didn't say anything at all?

22 A No.

23 Q At any point did that fellow from
24 the white car say to you, you know, you're
25 going to jail, anything like that?